

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR RULE ADOPTION**

AGENDA # III.B.1.

AGENDA ITEM SUMMARY - The department requests approval of amendments to the public water supply rules to:

1. Amend existing fees for the review of required plans and specifications submitted for public water and wastewater systems; and
2. Adopt new rules for house keeping purposes and clarification.

LIST OF AFFECTED RULES) - ARM 17.38.106.

AFFECTED PARTIES SUMMARY – Owners of all public water supply and public sewage systems. Examples of these systems include cities, towns, water and sewer districts, subdivisions, mobile home parks, businesses and schools. These changes will also affect any other “person” that may modify a public water or wastewater system. Examples include engineers, contractors, water treatment installers, and well drillers.

SCOPE OF PROPOSED PROCEEDING - The Department is requesting initiation of rulemaking and appointment of a hearing officer for a public hearing.

BACKGROUND – The FY99-00 legislative audit identified that, “The department does not recover its cost for reviews of public water supply system plans and specifications as required by law.” In fact, the department also does not recover its cost for wastewater system plans and specification reviews as also required in Section 75-6-108(3), MCA. The FY 01-02 legislative audit once again identified the lack of appropriate fees for review, but indicated that the department was initiating rule revisions to address that issue. As indicated by the most recent financial review, the program collected \$113, 000 less in fees for FY04 than it cost to complete those reviews. Therefore the department must modify its fee schedule so as to meet the legislative requirements

HEARING INFORMATION – No hearings have been held.

BOARD OPTIONS - The Board may:

1. Initiate rulemaking, appoint a hearing officer, and schedule a hearing;
2. Determine that the adoption of rules is not appropriate and decline to initiate rulemaking; or
3. Direct the Department to modify the rulemaking and proceed.

DEQ RECOMMENDATION – The Department recommends initiation of rulemaking and appointment of a hearing officer for a public hearing.

ENCLOSURES - Notice of public hearing on proposed amendment of ARM 17.38.106 pertaining to public water and sewage system review fees.